

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

**Commonwealth Edison Company**

**Petition for expedited approval of  
Implementation of a market based  
Alternative tariff, to become effective  
On or before May 1, 2000, pursuant  
Article IX and Section 16-112(c) of the  
Public Utilities Act.**

**Docket No. 00-0259**

**NICOR ENERGY, L.L.C.'S REPLY BRIEF ON EXCEPTIONS**

Nicor Energy, L.L.C. ("Nicor Energy"), by its attorneys, the Law Office of Michael A. Munson, hereby submits its Reply Brief on Exceptions responding to various parties' Briefs on Exceptions to the Hearing Examiners' Proposed Order ("HEPO" or "Proposed Order") issued on April 21, 2000.

**I. THE ILLINOIS ELECTRIC MARKET WOULD BE BETTER SERVED BY  
ADOPTING COMED'S PPO-MI PROPOSAL RATHER THAN BY FORCING  
COMED TO OFFER THE PPO-NFF AND PPO-MI TARIFFS  
SIMULTANEOUSLY**

Nicor Energy questions the continued use of the PPO-NFF as a second competitive utility option in the marketplace, in addition to the fact that the PPO-NFF does not adequately reflect the seasonality of power prices. By mandating both PPO's the Commission effectively sanctions the utility to provide two competitive options to customers in contravention of the intent of Sections 16-110 and 16-112 of the Act.

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Clearly, the NFF has its shortcomings as noted on page 24 of the HEPO.<sup>1</sup> Given the need to move towards an index that reflects appropriate values for power and energy, providing customers with the availability of two utility PPO products, including one that does not effectively capture the seasonality of prices, is inappropriate. If after workshops and an investigation after the summer of 2000, it is found that the proposed Rider PPO-MI is not effective in sending the proper price signals, then a PPO-NFF should be reconsidered. However, mandating the continued use of the PPO-NFF perpetuates an ineffective market value methodology for too long a period of time.

Nicor Energy does agree with the need to offer the Rider PPO-NFF as a backstop to customers as proposed in ComEd's filing. By allowing that backstop for existing and transitioning customers, as per the MidAmerican negotiated position, those customers will not experience a sudden shock of moving to prices more reflective of the market.

Finally, we must consider the concern that the proposed Rider PPO-MI would be withdrawn if PPO-NFF were required to be continued past January 2001. As per ComEd's brief, the continued use of PPO-NFF may constitute such a fatal flaw that the proposal is withdrawn. If withdrawn, competition in the retail electric markets may be seriously damaged as RES's that are currently "flowing" power to customers are forced to put those customers on PPO-NFF. RES's acting solely as billing agents does not promote the development of an effective competitive market.

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<sup>1</sup> Nicor Energy has repeatedly opposed the NFF process in favor of a market-based index. In fact, Nicor Energy proposed the use of historical data on day-ahead pricing for deliveries into ComEd's system in Docket No. 00-0007.

Simply put, Nicor Energy recommends that the Hearing Examiner reconsider the conclusions reached in the HEPO that provides ComEd with two competitive options, and adopt ComEd's original proposal to phase-out the NFF process.

**II. THE PPO-MI SHOULD BE ADDRESSED IN WORKSHOPS AND MODIFIED IF APPROPRIATE TO EXAMINE ITS EFFECTIVENESS IN LIGHT OF THE DEVELOPING MARKET FOR POWER AND ENERGY**

In its Brief on Exceptions, Nicor Energy supported the conclusions reached in the HEPO for a "sunset" provision for the proposed Rider PPO-MI and related Rate CTC-MI. Nicor Energy suggests that in light of the developing market, the design of a market index tariff should be revisited in workshop form at a minimum. After those workshops, an investigation may begin that eventually modifies, if needed, the currently proposed Rider PPO-MI for new implementation at the beginning of May 2001. As addressed in the briefs of other parties, there are several issues to be further considered with the calculation of the market value. In addition, this summer should provide valuable insights into the effectiveness of the proposed indices. Data from other relevant market indices may also be considered. Nicor Energy stated the fall would be an appropriate time to begin workshops; if necessary, a docket should be instigated in January 2001 to adopt changes to PPO-MI if any. Therefore, Nicor Energy submits that to effectuate the facilitation of a workshop, the following sentence should be added to the first paragraph on page 26 of the HEPO:

**Beginning in September, the ICC shall convene a workshop to examine the effectiveness of Rider PPO-MI for determining the market value. Reopening this docket or initiating a separate proceeding may be necessary at the conclusion of the workshops.**

**III. THE COMMISSION SHOULD ADOPT THE MODIFICATIONS IDENTIFIED BY COMED, MEC AND CMS MARKETING IN THEIR NEGOTIATED AGREEMENT**

While not a party to the negotiated agreements reached by these parties, after a review of the proposed modifications to ComEd's original proposal, the modifications are reasonable in light of the procedure required to effect such a change. As such, Nicor Energy supports the adoption of these proposals, as the provisions provide customer benefits and do not hamper other RES's in any fashion. The HEPO should be modified according to MidAmerican Energy Company's Brief on Exceptions, pages 10-11 addressing the agreement reached between the RES's and ComEd.

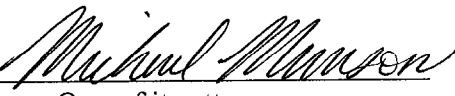
#### **IV. CONCLUSION**

For the reasons set forth in its Brief on Exceptions and Reply Brief on Exceptions, Nicor Energy, L.L.C. respectfully requests the Commission enter an Order consistent with the following:

1. Adopt the HEPO with following modifications:
  - a. Remove the language to the HEPO that specifies that the PPO-MI and PPO-NFF be offered simultaneously through May 2001;
  - b. Adopt the "sunset" provision that requires workshops and a new docket, if necessary, to perpetuate PPO-MI as written, or with appropriate modifications;
  - c. Adopt the changes to ComEd's original filing consistent with the issues identified by MidAmerican and CMS Marketing identified herein;
  - d. Enter a Notice of Rulemaking with the arguments presented.

Respectfully submitted,

NICOR ENERGY, L.L.C.

By   
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April 25, 2000

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

<b>Commonwealth Edison Company</b>	:	
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<b>Petition for expedited approval of</b>	:	<b>Docket No. 00-0259</b>
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<b>Alternative tariff, to become effective</b>	:	
<b>On or before May 1, 2000, pursuant</b>	:	
<b>Article IX and Section 16-112(c) of the</b>	:	
<b>Public Utilities Act.</b>	:	

**CERTIFICATE OF SERVICE**

I, Michael A. Munson, hereby certify that a copy of Nicor Energy LLC's Reply Brief on Exceptions to the Hearing Examiner's Proposed Order filed in the above-captioned proceeding was served on the person or persons on the attached service list by depositing same in the United States Mail depository with proper postage prepaid thereon, by Federal Express, by facsimile, by hand-delivery or by electronic mail on April 25, 2000.



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